

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

**MEREDITH MANDEVILLE,
Executrix of the Estate of Joel Dew,
Deceased,**

Plaintiff,

vs.

**Civil Action No. 5:14-cv-25013
(Honorable Irene C. Berger, Judge)**

**STEVEN HARRY NATHANSON, M.D. and
SOUTHEASTERN EMERGENCY PHYSICIANS, LLC,**

Defendants.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**ARTHUR GALLAGHER, Individually and as
Administrator of the Estate of MARGARET GALLAGHER,**

Plaintiff,

vs.

**CIVIL ACTION NO. 14-C-345
(Honorable Jennifer F. Bailey, Judge)**

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS,**

Defendant.

DEFENDANT'S NOTICE OF TRIAL CONFLICT

NOW COMES David L. Shuman, Karen Tracy McElhinny and Shuman, McCuskey & Slicer, P.L.L.C., as counsel for Defendant, Southeastern Emergency Physicians, LLC ("SEP") in the matter styled *Meredith Mandeville, Executrix of the Estate of Joel Dew, Deceased v. Steven Harry Nathanson, M.D. and Southeastern Emergency Physicians, LLC* and also as counsel for

Defendant, West Virginia Virginia University Board of Governors (“WVUBOG”) in the matter styled *Arthur Gallagher, Individually and as Administrator of the Estate of Margaret Gallagher v. West Virginia University Board of Governors*, pursuant to West Virginia Trial Court Rules 5.04 and 5.05, and hereby give notice of the scheduling conflict as to the August 8, 2016 trials set in both of the aforementioned civil actions. In support thereof, counsel for Defendants, SEP and WVUBOG states as follows:

1. The undersigned counsel represents the Defendant, SEP, in the matter of *Meredith Mandeville, Executrix of the Estate of Joel Dew, Deceased v. Steven Harry Nathanson, M.D. and Southeastern Emergency Physicians, LLC*, Civil Action No. 5:14-cv-25013, pending in the United States District Court for the Southern District of West Virginia at Beckley, which is set for trial on August 8, 2016, pursuant to the Court’s March 24, 2016 Order entered by the Honorable Irene C. Berger.

2. Prior to the entry of the March 24, 2016 Order selecting the trial, Defendant, SEP, advised the Court of its conflict with the August 8, 2016 trial. (Docket No. 110, at ¶4).

3. The undersigned counsel represents the Defendant, WVUBOG, in the matter of *Arthur Gallagher, Individually and as Administrator of Estate of Margaret Gallagher vs. the West Virginia University Board of Governors*, Civil Action No. 14-C-345, pending in the Circuit Court of Kanawha County, West Virginia, which is set for trial on August 8, 2016, pursuant to the Court’s January 11, 2016 Order entered by the Honorable Judge Jennifer Bailey.

4. Pursuant to Trial Court Rule 5.04, counsel hereby advises the clerks, counsel and presiding Judges in both the *Gallagher* and *Mandeville* matters of the imminent scheduling conflict with the August 8, 2016 trial dates.

5. As the undersigned counsel properly notified the involved Courts and associated counsel of record of the impending conflict, this matter is now submitted to the Judges of the Courts involved to resolve these conflicts pursuant to West Virginia Trial Court Rule 5.05.

WHEREFORE, the undersigned counsel respectfully requests that the Honorable Judges of the Circuit and Federal Courts confer, resolve the August 8, 2016 trial date conflict, and notify counsel of record of the resolution and grant Defendants such other and further relief as the Court deems appropriate.

**SOUTHEASTERN EMERGENCY
PHYSICIANS, LLC,
By Counsel.**

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
By Counsel.**



David L. Shuman, Esq. (WVSB # 3389)
Karen T. McElhinny, Esq. (WVSB # 7517)
SHUMAN, McCUSKEY & SLICER, PLLC
Mailing: Post Office Box 3953
Charleston, West Virginia 25301
Telephone: (304) 345-1400
Email: kmcelhinny@shumanlaw.com / dshuman@shumanlaw.com

*Counsel for Defendant Southeastern Emergency Physicians, LLC (Mandeville matter) and
Counsel for West Virginia University Board of Governors (Gallagher matter)*

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

MEREDITH MANDEVILLE,
Executrix of the Estate of Joel Dew,
Deceased,

Plaintiff,

vs.

Civil Action No. 5:14-cv-25013

STEVEN HARRY NATHANSON, M.D. and
SOUTHEASTERN EMERGENCY PHYSICIANS, LLC,

Defendants.

CERTIFICATE OF SERVICE

20th

I, David L. Shuman, do hereby certify that I served this ~~17th~~ day of June, 2016 the
“Defendant’s Notice of Trial Conflict” with the Clerk of the Court using the CM/ECF system
which will serve notice on the following:

R. Dean Hartley, Esquire (WVSB #1619)
Mark R. Staun, Esquire (WVSB #5728)
Hartley & O’Brien, P.L.L.C.

The Wagner Building
2001 Main St., Suite 600
Wheeling, WV 26003

And

Scott S. Segal, Esquire (WVSB #4717)
The Segal Law Firm
A Legal Corporation

810 Kanawha Boulevard, East
Charleston, WV 25301

Counsel for Plaintiff

Tamela J. White, Esquire (WVSB #6392)
Bernard S. Vallejos, Esquire (WVSB #10017)
Farrell, White & Legg, P.L.L.C.

914 5th Avenue
Huntington, WV 25772-6457

Counsel for Defendant, Steven Harry Nathanson, M.D.

/s/ David L. Shuman



David L. Shuman, Esq. (WVSB # 3389)

Karen T. McElhinny, Esq. (WVSB # 7517)

SHUMAN, McCUSKEY & SLICER, PLLC

Street: 1411 Virginia Street East, Suite 200 (25301)

Mailing: Post Office Box 3953

Charleston, West Virginia 25301

Telephone: (304) 345-1400

Email: kmcelhinny@shumanlaw.com / dshuman@shumanlaw.com

Counsel for Defendant Southeastern Emergency Physicians, LLC

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**ARTHUR GALLAGHER, Individually and as
Administrator of the Estate of MARGARET GALLAGHER,**

Plaintiff,

Vs.

**CIVIL ACTION NO. 14-C-345
Honorable Jennifer F. Bailey, Judge**

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS,**

Defendant.

CERTIFICATE OF SERVICE

I, David L. Shuman, do hereby certify that I served this ^{20th}~~17th~~ day of June, 2016, the foregoing **"Defendant's Notice of Trial Conflict"** upon William L. Mundy and George B. Morrone, II, counsel for plaintiff, by depositing a true copy thereof in the United States mail, addressed to them at Mundy & Associates, P. O. Box 2986, Huntington, West Virginia, 25728-2986, which address is their last known address.



David L. Shuman, Esquire (WVSB #3389)
Caleb B. David, Esquire (WVSB #12732)
Shuman, McCuskey & Slicer, P.L.L.C.
1411 Virginia St., E., Suite 200 (25301)
P. O. Box 3953
Charleston, WV 25339-3953
Phone: 304-345-1400; Facsimile: 304-343-1826